

<div>Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address</div> <div>Steven L. Kimmel 6320 Van Nuys Blvd. Suite 409 Van Nuys, CA 91401 818-448-6225 Fax: 818-574-6801 82085</div> <div><input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for:</div>		<div>FOR COURT USE ONLY</div>	
<div>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA</div>			
<div>In re:</div> <div>Concepcion Ruiz</div> <div>Debtor(s).</div>		<div>CASE NO.: 1:14-bk-15638-MB CHAPTER: 13</div> <div>DEBTOR'S NOTICE OF MOTION AND MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]</div> <div>DATE: June 4, 2015 TIME: 9:30 AM COURTROOM: 303</div>	

1. **TO: Honorable Judge Martin R. Barash, Elizabeth Rojas, Chapter 13 Trustee, United States Trustee, Nationstar Mortgage, LLC, and all other interested parties.**
2. NOTICE IS HEREBY GIVEN that on the above date and time and in the indicated courtroom, Movant in the above-captioned matter will move this court for an order granting the relief set forth in the motion and accompanying supporting documents served and filed herewith.
3. **Hearing Location:**
- | | |
|---|--|
| <input type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012 | <input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701 |
| <input checked="" type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367 | <input type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101 |
| <input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501 | |
4. **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one. *(If you do not have an attorney, you may wish to consult one.)*
5. **Deadline for Opposition Papers:** This Motion is being heard on regular notice pursuant to LBR 9013-1. If you wish to oppose this motion, you must file a written response with the court and serve a copy of it upon the Movant or Movant's attorney at the address set forth above no less than 14 days prior to the above hearing date. If you fail to file a written response to this Motion within such time period, the court may treat such failure as a waiver of your right to oppose the Motion and may grant the requested relief.
6. **Hearing Date Obtained Pursuant to Judge's Self-Calendaring Procedure:** The undersigned hereby verifies that the above hearing date and time were available for this type of Motion according the judge's self-calendaring procedures.

Date: April 20, 2015

Law Office of Steven L. Kimmel

Printed name of law firm *(if applicable)*

Steven L. Kimmel

Printed name of Debtor or attorney for Debtor

/s/ Steven L. Kimmel

Signature of Debtor or attorney for Debtor

MOTION TO AVOID JUNIOR LIEN ON PRINCIPAL RESIDENCE [11 U.S.C. § 506(d)]
(DEBTOR: Concepcion Ruiz)

NAME OF CREDITOR HOLDING JUNIOR LIEN ("Respondent"): Nation Star Mortgage, LLC

1. Property at Issue: Debtor moves to avoid the junior deed of trust, mortgage or other encumbrance (Lien) encumbering the following real property (Property), which is the principal residence of debtor.

Street address: 8269 Webb Ave
Unit number: _____
City, state, zip code: North Hollywood CA 91605

Legal description of Property for document recording number (*including county of recording*):

LOT 96 OF TRACT NO. 14270, IN THE CITY OF LOS ANGELES, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 359, PAGE (s) 33 AND 34, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

☐ See attached page for legal description of Property or document recording number.

2. Case History:

- a. A voluntary petition under chapter ☐ 7 ☐ 11 ☐ 12 ☒ 13 was filed on (*specify petition date*): 12/29/2014
b. ☐ An Order of Conversion to chapter 13 was entered on (*specify date*): _____

3. Grounds for Avoidance of Junior Lien:

a. As of (*date of title review*) 12/29/2014, the Property is subject to the following liens in the amounts specified securing the debt against the Property, that the Debtor seeks to have treated as indicated:

- (1) Green Tree Servicing, LLC in the amount of \$ 360,424.68 .
(2) Nation Star Mortgage, LLC in the amount of \$ 49,402.74 ☒ is ☐ is not to be avoided
(3) (*Name of holder of 3rd lien*) _____ in the amount of \$ _____ ☐ is ☐ is not to be avoided;

☐ See attached page for additional lien(s).

As of October 4, 2014, Property is worth no more than \$ 355,000.00 .

b. As a result, Respondent's Lien encumbering the Property is wholly unsecured.

c. Evidence in Support of Motion:

- (1) ☒ The amount of the lien identified in paragraph 3(a)(1) is based on Copy of Proof of Claim and Deed of Trust, attached hereto and identified as Exhibit A .
(2) ☐ The amount of the lien identified in paragraph 3(a)(2) is based on (*type of evidence*) Copy of Proof of Claim and Deed of Trust, attached hereto and identified as Exhibit B .
(3) ☐ The amount of the lien identified in paragraph 3(a)(3) is based on (*type of evidence*) _____, attached hereto and identified as Exhibit _____.
(4) ☒ The relative priority of the liens encumbering the Property is established by evidence attached as Exhibit A and B .
(5) ☒ The value of the Property from paragraph 3(b) is based on Appraisal Report, attached as Exhibit C, and Debtor's Declaration, attached as Exhibit D ,
(6) ☒ Debtor submits the attached Declaration(s), attached as Exhibit D ,

(7) ☒ Other evidence (specify/identify supplemental evidence): Schedule A attached as Exhibit E.

d. **WHEREFORE, Debtor prays that this court issue an order granting the this motion and establishing that:**

(1) The Property is valued at no more than (requested value) \$ 355,000.00.

(2) No payments are to be made on the secured claim of the Respondent, and regular mortgage maintenance payments are not to be made, before the Debtor's ☒ completion of the chapter 13 plan, or ☒ receipt of a chapter 13 discharge.

(3) Respondent's(s') claim on the junior position lien(s) shall be allowed as a nonpriority general unsecured claim(s) in the amount per the filed Proof of Claim.

(4) The avoidance of the Respondent's(s') junior lien(s) is contingent upon: Debtor's ☒ completion of the chapter 13 plan, or ☒ receipt of a chapter 13 discharge.

(5) The Respondents shall retain its/their lien(s) in the junior position for the full amount due under the corresponding note and lien in the event of either the dismissal of the Debtor's chapter 13 case, the conversion of the Debtor's chapter 13 case to any other chapter under the United States Bankruptcy Code, or if the Property is sold or refinanced prior to the Debtor's ☒ completion of the chapter 13 plan, or ☒ receipt of a chapter 13 discharge.

(6) In the event that the holder of the first position lien or any senior lien on the Property forecloses on its interest and extinguishes the Respondent's(s') lien rights prior to the Debtor's completion of the chapter 13 plan and receipt of a chapter 13 discharge, the Respondent's(s') lien(s) shall attach to the proceeds greater than necessary to pay the senior lien, if any, from the foreclosure sale, subject to the priority of any such junior lien(s).

e. ☐ See attached continuation page for additional provisions.

Date: April 20, 2015

Respectfully submitted,

/s/ Steven L. Kimmel

Signature of Debtor or attorney for Debtor

:Steven L. Kimmel

Printed Name of Debtor or attorney for Debtor

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**6320 Van Nuys Blvd. Suite 409
Van Nuys, CA 91401**

A true and correct copy of the foregoing document entitled (*specify*): **Notion of Motion to Avoid Junior Lien on Principal Residence and Debtor's Motion to Avoid Junior Lien on Principal Residence** will be served or was served (**a**) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (**b**) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **4/20/2015**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

**Nationstar Mortgage, LLC. - Michael Daniels / BkECFnotifications@nationstarmail.com
Elizabeth (SV) F Rojas / cacb_ecf_sv@ch13wla.com
United States Trustee / ustregion16.wh.ecf@usdoj.gov**

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On (*date*) **4/20/2015**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

**Honorable Martin R. Barash
United States Bankruptcy Court
Central District of California
21041 Burbank Boulevard, Suite 342
Woodland Hills, CA 91367**

**Concepcion Ruiz
8269 Webb Ave
North Hollywood, CA 91605**

☒ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

February 3, 2015
Date

Steven L. Kimmel
Printed Name

/s/ Steven L. Kimmel
Signature

II. SERVED BY UNITED STATES MAIL, CERTIFIED MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served):

(Attached page to Proof of Service of Document-please include any additional or alternative addresses and attach additional pages if needed)

(Certified Mail required for service on a national bank.)

1st lienholder (name and address) Green Tree Servicing, LLC Attn: Cheryl A. Collins, CEO 1400 Landmark Towers, 345 St. Peter Street Saint Paul, MN 55102	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# 7011-1150-0001-1885-5468 <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
1st lienholder (name) and Agent for Service of Process (name and address) CT Corporation System Agent for Service of Process 818 W 7th St #200 Los Angeles, CA 90017	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# 7011-1150-0001-1885-5475 <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
1st lienholder (name) and Servicing Agent (name and address) Green Tree Servicing, LLC P.O. Box 6154 Rapid City, SD 57709	Address from: <input checked="" type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# 7011-1150-0001-1885-5444 <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____

2nd lienholder (name and address) Nationstar Mortgage, LLC Attn: Jay Bray, CEO 8950 Cypress Waters Blvd. Coppell, TX 75019	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# 7011-1150-0001-1885-5437 <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
2nd lienholder (name) and Agent for Service of Process (name and address) CSC- Lawyers Incorporating Serv. Agent for Service of Process 2710 Gateway Oaks Dr., Ste 150N Sacramento, CA 95833	Address from: <input type="checkbox"/> Proof of Claim <input checked="" type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# 7011-1150-0001-1885-5420 <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
2nd lienholder (name) and Servicing Agent (name and address) Nationstar Mortgage, LLC Attn: Bankruptcy Department P.O. Box 619096 Dallas, TX 75261	Address from: <input checked="" type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# 7011-1150-0001-1885-5413 <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____

3rd lienholder (name and address)	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
3rd lienholder (name) and Agent for Service of Process (name and address)	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail -

		Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
3rd lienholder (name) and Servicing Agent (name and address)	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____

Alternative/Additional Address (name and address) Nationstar Mortgage, LLC Attn: Weinstein & Riley BK Services 2001 Western Ave., #400 Seattle, WA 98121	Address from: <input checked="" type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input checked="" type="checkbox"/> Certified Mail - Tracking# 7011-1150-0001-1885-5406 <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____
Alternative/Additional Address (name and address)	Address from: <input type="checkbox"/> Proof of Claim <input type="checkbox"/> Secretary of State <input type="checkbox"/> FDIC website <input type="checkbox"/> Other: <i>specify</i>	Delivery Method <input type="checkbox"/> US Mail <input type="checkbox"/> Certified Mail - Tracking# _____ <input type="checkbox"/> Overnight Mail - Tracking# _____ Carrier Name: _____